

REMARKS

1. In response to the Office Action mailed November 12, 2009, Applicants respectfully request reconsideration. Claims 1, 3-11, 14, 15, 19, 21-23, 25-34 and 36-54 were last presented for examination. In the outstanding Office Action, claims 1, 3-9, 19, 22, 23, 25-27, 34, 36-42, 53 and 54 were rejected. By the foregoing Amendments, claims 1, 3, 5-7, 19, 22, 23, 25-28, 32-34, 36, 38-40, 47, 50, 51, 53 and 54 have been amended, claims 4, 21, 37 and 52 have been cancelled, and no claims have been added. Thus, upon entry of this paper, claims 1, 3, 5-11, 14, 15, 19, 22, 23, 25-34, 36, 38-51, 53 and 54 will be pending in this application. Of these forty-one (41) claims, 3 claims (claims 1, 25 and 34) are independent.

2. Based upon the above Amendment and following Remarks, Applicants respectfully request that all outstanding objections and rejections be reconsidered, and that they be withdrawn.

Art of Record

3. Applicants acknowledge receipt of form PTO-892 listing additional references identified by the Examiner.

Examiner Interviews

4. Applicants note with appreciation the courtesies extended to Applicants' representative during the telephone conferences conducted on February 22, 2010. In the interviews, the Examiner indicated that proposed claim amendments that were discussed would be entered without the filing of a Request for Continued Examination (RCE).

5. However, Applicants are nevertheless filing an RCE herewith to obtain consideration of documents cited in an accompanying Information Disclosure Statement. In light of the RCE submitted herewith, Applicants respectfully request entry of the above amendments.

Allowable Subject Matter

5. Applicants thank the Examiner for indicating that claims 10, 11, 14, 15, 21, 28-33 and 43-52 would be allowable if rewritten in independent form including all of the limitations of the

base claim and any intervening claims. In particular, Applicants thank the Examiner for indicating that “the prior art does not disclose or suggest, primarily, the implantable device is an implantable hearing prosthesis,” as claimed in claims 21 and 52. (*See*, Office Action, page 8).

Claim 1

6. As noted above, the Examiner indicated that claim 21 would be allowable if written in independent form to include the limitations of the base claim (claim 1) and any intervening claims (none). By the foregoing amendments, Applicants have amended claim 1 to incorporate the subject matter formerly recited in claim 21. Specifically, Applicants’ amended claim 1 recites, in part, “[a]n implantable hearing prosthesis, comprising: an output circuit; and a power management system configured to supply power to the output circuit comprising: a plurality of rechargeable batteries; first conversion means . . . and switch means” (*See*, Applicant’s amended claim 1, above). Because amended claim 1 recites the limitations of claim 21, the base claim (claim 1) and any intervening claims (none), Applicants respectfully submit that Applicants’ claim 1 is in condition for allowance.

Claim 34

7. As noted above, the Examiner indicated that claim 52 would be allowable if written in independent form to include the limitations of the base claim (claim 34) and any intervening claims (none). By the foregoing amendments, Applicants have amended claim 34 to incorporate the subject matter formerly recited in claim 52. Specifically, Applicants’ amended claim 34 recites, in part, “[a]n implantable hearing prosthesis, comprising: an output circuit; and a power management system configured to supply power to the output circuit comprising: a plurality of rechargeable batteries; an input voltage converter circuit . . . and a switch matrix” (*See*, Applicant’s amended claim 34, above). Because amended claim 34 recites the limitations of claim 52, the base claim (claim 34) and any intervening claims (none), Applicants respectfully submit that Applicants’ claim 34 is in condition for allowance.

Claim Rejections under §102

8. Claims 1, 3-7, 19, 25-27, 34 and 36-40 are rejected under 35 U.S.C. 102(b) as allegedly being anticipated by Japanese Patent No. 04334935 to Miwa et al., (hereinafter, “Miwa”).

Applicants respectfully request that the Examiner reconsider and withdraw these rejections for at least the following reasons.

Claims 1 and 34

9. As noted above, the Examiner indicated in the Office Action that “[f]or claims 21, 52, the prior art does not disclose or suggest, primarily, the implantable device is an implantable hearing prosthesis.” (See, Office Action, page 8). Also as noted above, Applicants have amended claims 1 and 34 to incorporate the subject matter formerly recited in objected to claims 21 and 52. As such, applicants submit that Applicants’ claims 1 and 34 are in condition for allowance. Accordingly, Applicants request that the rejections of claims 1 and 34 be reconsidered and withdrawn.

Claim 25

10. Applicants’ amended claim 25 recites, in part, “[a] method of managing the supply of power to an output circuit of *an implantable hearing prosthesis* comprising a plurality of rechargeable batteries, the method comprising the steps of: converting, with an input voltage converter circuit, a supply voltage to a battery voltage; selectively connecting, using a switch matrix, a desired one of the plurality of rechargeable batteries to the input voltage converter circuit . . . and connecting a selected one of the plurality of rechargeable batteries, using the switch matrix, to the output circuit” (See, Applicants’ amended claim 25, above; emphasis added).

11. As noted above, the Examiner indicated in the Office Action, with regard to claims 21 and 52, that “the prior art does not disclose or suggest, primarily, the implantable device is an implantable hearing prosthesis.” (See, Office Action, page 8). Because claim 25 has been amended to include limitations that similar to those of claims 21 and 52, Applicants respectfully submit that claim 25 is in condition for allowance.

Dependent claims

12. The dependent claims incorporate all the subject matter of their respective independent claims and add additional subject matter which makes them independently patentable over the art

of record. Accordingly, Applicants respectfully assert that the dependent claims are also allowable over the art of record.

Conclusion

13. In view of the foregoing, Applicants respectfully submit that this application is now in condition for allowance. A notice to this effect is respectfully requested.

14. Applicants make no admissions by not addressing any outstanding rejections or basis of rejections. Furthermore, Applicants reserve the right to pursue any cancelled claims or other subject matter disclosed in this application in a continuation or divisional application. Thus, cancellations and amendments of above claims, are not to be construed as an admission regarding the patentability of any claims.

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Respectfully submitted,

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